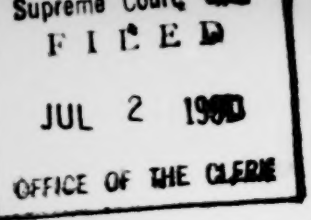


EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY
AT THE TIME OF FILMING. IF AND WHEN A
BETTER COPY CAN BE OBTAINED, A NEW FICHE
WILL BE ISSUED.



NO. 2 Civil B041251

Santa Barbara NO. 175673

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1990

LUCILA G. AMES — PETITIONER

V.

JOHN GHERINI — RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

LUCILA G. AMES
982 Fredensborg Rd.
Solvang, CA 93463
Phone 688-6392

QUESTIONS PRESENTED

- 1 - Is petitioner a vexatious litigant?
superior court - J. L. H.
- 2 - Is Santa Barbara ~~s/v~~vexatious litigant?
- 3 - will the Court honor the results of
the current appeal?
- 4 - Will the Court open Polydore J. Stockm-
as deceased, Estate records?
- 5 - will the Court honor petitioner's will
for Summery Judgment?
- 6 - Will petitioner receive immediate
possession of the land in Polydore J.
Stockmans deceased, Estate?
- 7 - will petitioner receive compensation
for loss of use of the land?
- 8 - will petitioner be pay for damages?
- 9 - Will the liean by respondent on my
property be void?
- 9 - will contestant will be void.
- 10 - Is respondent John Gherini an
complice.
- 11 - Will Santa Barbara Superior pay for
damages?

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution Article XIV
 Article IX (Section 1.) The enumeration in
 the Constitution, of certain rights, shall
 not be construed to deny or disparage
 others retained by the people.

Proposed September 25, 1937: ratified
 December 15, 1791.

The California Constitutional claim is also
 based on violation of their rights to equal
 protection.

V11

Eventhe Section 1043 procedure, the Privil-
 ges of petitioner must still be weighed
 against the State's and petition's Right to
 know.

(2.62) By subsequent Instrument.

Code 74 (1) Provides that a will may be
 revoked by a "written will or other writing
 of the testator, declaring such revocation

or alteration, and executed with same formalities required for the execution of a will.

The fifth Amendment of the United States Constitution provides in pertinent part:

No person shall ...be deprived of life, liberty, or property, without due process of law.

In *People v. mun. Court of San Francisco*, 102 Cal. App. 3d 184, 162 Cal. Rptr 347 (1980) the Court construed the "new" §1045. Thus the documents requested by petitioner are clearly discoverable even under California law.

TABLE OF CONTENTS

QUESTIONS PRESENTED-----	1
CONSTITUTION PROVISIONS INVOLVED--	11-11
STATEMENT /STATEMENT OF CASE-----	1 to 5
STATEMENT OF FACTS -----	5
REASON FOR GRANTING THE WRIT -----	6
CONCLUSION -----	etc 7

APPENDIX

RE SANTA BARBARA SUPERIOR COURT REFUSAL TO HONOR AN ORDER CHANGING VENUE. --	A1 - 2
DISCRIPTION OF THE ALBY FR M THE ASSESSOR MAP DEPT.-----	A--3
RESULTS OF THE CURRENT APPEAL-----	A - 4
LETTER TO JUDGE JOE D. HADDEN BY JOHN GHERINI AND ANSWER -----	A - 5-7
OPININ OF THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT--	A-8-11
REBECCA MELENDEZ JUDGMENT-----	A-12 - 15
LAST WILL AND TESTAMENT'S -----	A16 - 19
ORDER DENYING REVIEW AFTER JUDGMENT BY COURT OF APPEAL -----	A--20
PROVE OF SERVICE -----	A21

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1990

Case NO.

LUCILA G. AMES,

Petitioner,

V.

JOHN GHERINI, Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

Lucila G. Ames petitions for a writ
of certiorari to determin if I am a
vexatious litigant. If I will receive
Polydore J. Stockmans deceased, Real
Estate that he owned at the time of his
death, if I will br pay for damages.

statment - I am not an attorney.

I am plaintiff in Pro Per, because no attorney will take my case. Legal Aid said, we can not help you. Since October 19, 1981, Santa Barbara Superior Court has been (blocking) my case.

STATMENT OF THE CASE

On October 29, 1948. Case NO. 40092. My mother- Rebecca Melendez sold me Polydore J. Stockmans, deceased real Estate. I put it through Escrow. Escrow said, she could not sell, because she didn't have clear title. She said, she would clear title for me. Pier Gherini - respondent's father as administrator, cleared title to Polydore J. Stockmans, deceased Estate (in my mother's name) Rebecca Melendez. He knew that the Family Service agency of Santa Babara wanted the disput land. He sold the land by giving the incorrect land discription in Judgment 40092. It discribes a portion of an ally. (All I got is a portion of an ally.)

Family Service Agency of Santa Barbara knew that the disput parcel was stolen. Thy wanted the land and thy took it. Part of the land was convayed to the City. The City knew the land was stolen. They said, they couln't do anything about it. That it had to be settled in Court. It was recordered that Mildred Velentine-Excutive director of the Family Service Agency of Santa Barbara, gavePolydore J. Stockmans, deceased Estate to the Family Service Agency. I talked to Mildred Velentine. I ask her how could you give the land. It is not yours to give. She said, (we want it and we havit it now.) I took my case to attorney Shamous OmCfaddn. (my own atttorney closed P.J. Stockmans, deceased Estate records.) I made a motion to open the records. Judge Jensen deceased, said, motion denied.If you bring this case into court again.I am going to put in jail. On August 22,1957.Family Service sued me for

damages and trespassing. Judgment was for the Family Service Agency. Since February 19, 1981, before he assumed the bench Judge William L. Gordon told the court that it (appeared) that I am a vexatious litigant. That there is no reasonable probability that I will prevail in the litigation. On October 19, 1981. The court declared me a vexatious litigant (on a hear say.) The court is using vexatious litigant as an antidote solely to delay my case. (It has never been proven that I am a vexatious litigant.) Vexatious litigant has to be individually established for any given law suit. On July 19, 1974. The court precluded me from filing any action in Santa Barbara County. By Court Orders.

ORDERS

- 1 - No. 54255. Dated Jun 17, 1974. Order by Jensen-deceased.
- 2 - August 12, 1981. Order by counsel Don Vickers.

3 - NO Misc, # 491. Dated April 14, 1983

Order by Judge Bruce WM. Dodds.

4 - NO. 146747. Dated March 14, 1984. Order

by Judge Bruce WM. Dodds.

5 - NO. 97879. Dated December 17, 1987

Order by Judge Bruce WM. Dodds.

Refusal change of venue. There is no known authority for him to make such an authorization. In September 25, 1982. My mother Rebecca Memendez died. She willed me P.J. Stockmans deceased, Real-Estate that he owned at the time of his death. On the probate of will. I asked Judge Dodds if I could the rules on will drafting. He said, you may not. I told him, that there is a current appeal. That it was reversed and remanded for further proceedings. He took the appeal and said, (I'll put it aside.) (He did not honor the appeal.) I told him that contestant will is not valid, because it is altered from March to October. Judgment was for contestant.

Having been precluded from filing actions in Santa Barbara County. I took my actions to Ventura. In ventura my cases were DISMISSED FOR LACK OF JURISDICTION Gherini

respondent told the court that it is clear that I am a vexatious litigant, that "actions" should be dismissed; sactions should be awarded; fees and cost should be awarded; security posted; and the clerk of the Circuit Court Ordered not to accept any further filings. He also wrote a letter to Judge Joe D. Hadden, and advise against my case. -see letter and answer. Ventura Superior court granted respondent motion for change of venue, to Santa Barbara Superior Court.

STATEMENT OF FACTS

SANTA BARBARA SUPERIOR COURT made a sua Order direction its Clerk not to accept motion. Left my case in limbo, in no court at all. I appealed to the State Supreme Court. The State Supreme denied my appeal. See opinin of the Court of appeal of California.

6

REASONS FOR GRANTING THE WRIT

This case involves important issues to the disput parcel. I am entitled to Summery Judgment Quieting its Title and traspass. I have Competent Means that I hold Title to the disput paecel. Family Service Agency of Santa Barbara are with out right. They made entries upon said property without right.

CONCLUSION

I demand that Respondent- John gherini prove that I am a vexatious litigant.

Petition for writ of certiorari should be granted granted. Will the court please honor the current appeal for Summery Judgment? It is Substantial Evidence that I am not a vexatious litigant, and that I hold title to the disput parcel.

My case is of imperative Plubic importance as to justify deviation from my practice and to require immediate settlement i

This court 28 U.S.C. § 2101 (e).

Adequate relief cannot be obtained in
any other form or from any other court.

Respectfully Submitted

Lucila G. Ames

LUCILA G. AMES

982 Fredensborg Rd.

Solvang, CA. 93463

Phone 6886392

Plaintiff in Pro Per.



SUPERIOR COURT OF CALIFORNIA

COUNTY OF VENTURA

JUDGE: KENNETH R. YEGAN/DATE: DECEMBER 17.

1987

Clerk: ROSAURA CORONA/ BAIFF: CASE NO. 97879

COURT REPORTER -----

TYPE OF CASE:

LUCILA G. AMES,

V.

Counsel for

JOHN GHERINI,

Counsel for

NATURE OF PROCEEDINGS:

ORDER ON COURT OWN MOTION RE SANTA BARBARA
SUPERIOR COURTS REFUSAL TO HONOR AN ORDER
CHANGING VENUE.

The Court is in receipt of the December 8, 1987 minute order from the Superior court, County of Santa Barbara (Hon. Bruce WM. Dodds), entitled "Denial of Court Authorization to Accept Documents for Filing." In connection therewith, the Clerk of the Santa Barbara Superior Court phsically returned of case notwithstanding this Court's September 15, 1987 order granting a change of venue on motion of defendant John Gherini

This Court has serious doubts that one superior court, in essence, refuse to honor an order changing venue and overrule a determination by another. In any event, the December 8, 1987 Santa Barbara order involves the parties and the instant suit in no superior court at all. Rather than engage a "pingPong" match and reorder the matter transferred to Santa Barbara, the Clerk of this Court directed to: (1) retain the documents in Ventura Superior Court, File No. 97879; and, (2) give notice of this minute order the other, or both might seek relief from the Court of Appeal, Second Appellate District, Division Six.

RICHARD D. DEAN

BY:-----
Deputy County Clerk

CC-180 (Rev. 183)

White, P.J. and Fourt, J, Concurred.

Describes the westerly 53.5 feet
of Assessor Parcel 31-012-14
which includes according to Assessor
Block Book year 1926 - 1930
a portion of an alley.

J.L.C.

Assessor Map Dept.

Discription of the land that Pier
Gherini gave Rebecca Melendez, for the
Real Estate of Polydore J. Stockmans
deceased. In Judgment 40092.
A portion of an alley.

Date July 22, 1957

FAMILY SERVICE AGENCY OF SANTA

BARBARA V. AMES

In view of the foregoing, we deem it unnecessary to discuss other points raised by respondent, and considered by us, relating to the sufficiency of its affidavits on the question of ownership by title and the lack of any deficiency in the motion for summary judgment, in that it was noticed upon affidavits as well as "the papers, pleadings, files, records, and proceedings in the action." It should be understood that we have considered the pleadings and the facts solely from the standpoint of their competency upon a summary judgment proceedings.

(The attempted appeal from the judgment denominated "Order on Motion for Summary Judgment" dated August 5, 1957, is dismissed: the judgment dated September 3, 1957, from which this appeal has been taken, is reversed and the cause remanded for further proceedings.)

September 13, 1984

The Honorable Joe D. Hadden

Judge of the Superior Court County of
Ventura.

800 South Victoria

Ventura, Cal. 93009

Re; Lucila G. Ames V Pier Gherini, William
L. Gordon, Superior Court, of Ventura, NO.

84944. Date of hearing Oct. 3, 1984, time
9:00a.m. Room 41.

Dear Judge Hadden:

I represent my father, Pier Gherini, and William Gordon, who is now Judge of the Superior Court of Santa Barbara County. Before Judge Gordon assumed the bench, He was involved in prior litigation with the plaintiff Lucila G. Ames. As indicated by the Application, the plaintiff Lucila G. Ames has been previously determined by the Court's Order to be a vexatious litigant, which she admits in the papers filed by her as plaintiff in pro per. Obviously, Ventura County is the improper venue, in view of the fact that all the parties and all prior litigation have been in the County of Santa Barbara.

Additionally, the real estate referred to in her Declaration is also in Santa Barbara County.

Because she is a vexatious litigant, I feel that the most expeditious way to handle the matter is through the enclosed Ex Parte Application. Otherwise, other motions would have to be made, in addition to her motion set for October 3, 1984, in Room 41. Because of the plaintiff's pending motion, I would appreciate knowing as soon as possible whether or not the matter can be dismissed pursuant to the enclosed Application.

Respectfully yours,

JOHN GHERINI

JG/mo

cc: The Honorable William L. Gordon
Ms. Lucila G. Ames

No 94944 was taken off calendar. The court didn't have jurisdiction.

SEPTEMBER 19, 1985

John Gherini, Esq.
1114 State Street, #230
Santa Barbara, CA. 93101

Re: Lucila G. Ames vs John gherini
Ventura Superior Court No. 89127

Dear Mr. Gherini:

Thank you for your letter of September 12, 1985.

As you are no doubt aware, in addition to establishing a pattern of unseccessful litigantion, the Court must make a finding that there is not a reasonable probability that the plaintiff will prevail in the litigation against the moving defendant and thus a vexatious litigant status must be individually established for any lawsuit. So even though the order you furnished me showing dismissal based on vexatious litigant status in Santa Barbara on an earlier case, it does not establish that status as to the instant case.

I have no difficulty at all in empathizing with your concerns, but the relief you seek does not appear appropriate.
Very truly yours

Joe D. Hadden
Judge of the Superior Court



NOT TO BE PUBLISHED
IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

LUCILA G. AMES,)	2d Civil No. BC1251
Petitioner,)	(Super. Ct. 175673)
)	(Santa Barbara, County)
V.)	Court of Appeal Second
)	F I L E D
JOHN GHERINI,)	Feb 6, 1990
Respondent.)	Robert N. Wilson
-----)	

This is the most recent appeal in a case that Lucila G. Ames has been unsuccessfully litigating and relitigating in various actions since 1974. Having been found to be a vexatious ligigant in Santa Barbara Superior Court, she filed the instant action in Ventura Superior Court. The Ventura Court granted respondent Ghe ini's motion for a change of venue to Santa Barbara. the Santa Barbara Superior made a sua sponte order directing its Clerk not to accept the case. The Ventura Court, questioning the appropriateness of the Santa Barbara Order, accepted custody of file and invited the parties to seek our advise. Ames brought

the matter to us by way of appeal rather than applying for extraordinary relief. We dismissed the appeal for lack of an appealable order, and suggested that further proceedings to break the impasse between the Ventura and Santa Barbara courts might be avoided if the Santa Barbara court would accept transfer and dismiss the case pursuant to the inherent power to prevent the abuse of process. (Citing Muller V. Tanner (1969) 2 Cal. App.3d 438, 443.)

The Santa Barbara court accepted our suggestion, and by an unsigned minute order accepted and dismissed the case.

Because Code of Civil Procedure section 581d requires that an order dismissing an action be signed by the court, an unsigned minute order is ineffectual and not appealable. (9 Witkin, Cal. Procedure (3d. ed. 1985.) Appeal, §75 p. 99) However, in order to avoid a waste of judicial time, the proper procedure is for us to instruct the court in the event to appealable order of dismissal.

We treat the notice of appeal as a premature but effective appeal from that order. (see Hamm v. Elkin (1987) 196 Cal. App.3d 1343,1345.)

Ames raises no cognizable issues in the instant appeal. Apparently she wishes us to determine that she is not a vexatious litigant, and to decide the case in her favor on the merits. Those issues had previously been determined against her, the judgments or orders have long since become final, and we have no power to disturb them on appeal. (7 Witkin, Cal. Procedure (3d ed. 1985) Judgment, ¶188, p. 621.)

The only question remaining is whether this appeal warrants the imposition of sanctions against Ames.

Sanctions should be used most sparingly to deter only the most egregious conduct. (In re Marriage of Flaherty (1982) 31 Cal. 3d. 673,651.) Ames' first appeal was at the suggestion of the trial court. Although this appeal was undertaken on her own initiative, her conduct insofar as the appellate process is concerned was not so

egregious as to warrant sanctions at this time.

However, Ames should not receive encouragement from our reluctance to impose sanctions at this time. She should understand that her dispute with Gherini in this matter has ended. The Courts have decided against her, and she risks sanctions if she attempts to pursue the matter further.

The trial court is instructed to enter a nunc pro tunc judgment of dismissal in accordance with the requirements set forth in Code of Civil procedure section 581d. That judgment is affirmed. Respondent is awarded cost on appeal.

NOT TO BE PUBLISHED.

ABBE, J.

we concur:

STONE, P. J.

GILBERT, J.

IN THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA IN AND FOR THE COUNTY OF
SANTA BARBARA.

REBECCA MELENDEZ,
Plaintiff,

-VS-

PIER GHERINI, AS
Administrator of the Estate
of POLYDORE J. STOCKMAN DECEASED
Defendant.-----

} NO. 40092

} judgment

The above entitled action coming on
regularly for trial this day of August, 1947
before the Court, W.P. Butcher appearing as
attorney for the plaintiff, Pier Gherini as
administrator of the Estate of Polydore J.
Stockman, also known as P.J. Stockman
Deceased, appearing on his behalf, the trial
was thereupon had upon the plaintiff's
complaint and the answer thereto the defe-
dant, and evidence having been introduced on
the part of the plaintiff and no evidence
having been introduced on the part of defen-
dant, said cause was submitted on the part
of the defendant, said cause was submitted

to the court for its consideration and decision and after due deliberation and consideration and decision and after due deliberation consideration and being fully advised in the premises, the court having made its Findings of Fact and Conclusion of Law and accordance with said Findings, now, therefore it is hereby

ORDER, ADJUDGED AND DECREED that the plaintiff was at all times mentioned in said complaint and now is the owner in fee simple of all that certain lot, piece, parcel or tract of land situate, lying and being in the City of Santa Barbara, County of Santa Barbara, State of California, particularly described as follows:

That portion of block 172 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the official map thereof, described as follows:

beginning at a point distant 69 feet southwesterly from the southwesterly line of Garden Street, measured at right angles therefrom and 22 feet southeasterly from the

214

southsoutheasterly line of Canon Perdido Street, measured at right angles thereto thence southeasterly and parallel with said line of GARDEN Street, 60 feet to a point; thence at right angles southwesterly 53.5 feet to a point; thence at right angles northwesterly 53.5 feet to a point; thence at right angles northwesterly 60 feet to a point thence at right angles northwesterly 60 feet to a point thence at right angles northeasterly 53.5 feet to the point of beginning. and it is further ORDERED, ADJUDGED AND DECREED that the defendant, Pier Gherini, as Administrator of the Estate of Polydore J. Stockman, also known as P.J. Stockman, Deceased, and the Estate of said Polydore J. Stockman, also as P.J. Stockman, Deceased and the heirs and assigns of said Polydore J. Stockman, also known as P.J. Stockman, Deceased, and each and all of them, have no right or title of any kind whatsoever in and to said real property, or any part thereof, and that each and all of them are hereby forever in and to said property, or any part thereof.

Done in open Court this 1 day of August
1947.

Atwell Westwick

Judge of said Superior Court

Entered August 1st, 1947, Judgment Book A-

page 282

October 22, 1977

LAST WILL AND TESTAMENT

Known all men by these presents, that I Rebecca Melendez, residing in the County of Santa Barbara, State of California being of sound and disposing mind and memory, not acting under fraud, menace, or undue influence of any person whomsoever, do make, declare and publish this my last will and testament as follows:

FIRST: I revoke any and all former wills and codicils heretofore made by me.

Second: I declare that I am a widow and that my social security number is 549-16-9898. I further declare that I have six children, namely, Manuel Gutierrez, of Santa Barbara, Calif. Lucila G. Ames Solvang, Calif. Josefine Willette, of Santa Barbara, Calif. Georgia Knapp, of Santa Barbara, Calif. Andrew Melendez Jr. of Santa Barbara, Cal. Rebecca Gonzales, of Sacramento, Calif.

Third; I direct, and appoint my son Andrew Melendez Jr. as executor of my Estate and of this last will testament;

and request that He serve without bond or other security. In the event that my son Andrew Melendez Jr. is unable to serve as my executor, then I direct and appoint my son Manuel Gutierrez as excutor of my Estate. I direct which ever of my son is alive at the time of my death to take over the duties as my executor, to pay all my just debts and burial expenses as soon after my deceased as may be practicable.

In witness whereof, I have hereunto set my hand this 22nd day of October 1977

Witness: G.E.W. 10/22/77

I, REBECCA MELENDEZ, in the County of Santa Barbara, State of California. Being of sound and disposing mind and memory, not acting under fraud, menace, or undue influence of any person who soever, do make, declare publish this my last and testament as follows:

FIRST: This will is not to be revoke
Second: I declare that I am a widow that my Security Number is: 54-16-9898. any that is left over is to be divided to my four daughters, LUCILA, JOSEPHINE, GEORGIA AND REBECCA.

THIRD: Upon my death, I devise and bequeath the Real Estate that Polydore J. Stockman, deceased owned at the time of his death, on Block 172, in Santa Barbara, Calif. The Real Estate records of P.J. Stockman, deceased, in Santa Barbara, Cal., are closed by a Court Order. I request that P.J. Stockman, deceased Estate records be open and the public have full access to the same. My sewing

machine, my picture and my trunk

Located to my daughter LUCILA G. AMES OF
Solvang, CA.

FOURTH: I direct, nominate and appoint my said daughter, Lucila G. Ames of Solvang, CA. to serve as executor of this my last will and testament and request that she serve without bond or other security.

In WITNESS WHEREOF, I have hereunto set my hand this 19 day of March 1975.

REBECCA MELENDEZ.

Testatrix in our presence publish, declare and signed by her as her last will and testamen and she requested us to witness her execution of said will, and we in her presence, at her request and in her presence of each other, did sign our name as witnesses to said will.

Alicia Caldron: Residing in Santa

Barbara, Calif.

Manuel Gutierrez: Residing in Santa

Barbara, Calif.

ORDER DENYING REVIEW

AFTER JUDGEMENT BY THE COURT OF APPEAL
Second Appellate District, Division six
NO. B041251 S014215

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

IN BANK

=====

LUCILA G. AMES, Appellant

V.

JOHN GHERINI, Respondent

=====

Appellant's petition for review DENIED.

April 25, 1990

Acting Chief Justice

2D Civil No. B041251
(Super. Ct. NO. 175673
Santa Barbara County)

PROOF OF PERSONAL SERVICE

I, LUCILA G. AMES-----declare that I am a
citizen of the United States and I am
over 18 years of age. My address is 982
Fredensborg Rd. Solvang, CA. 93463.

I declare that I served the attached
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS.

Following

JOHN GHERINI
Suit 230
111 State Street
Santa Barbara, CA. 93101

I declare under penalty of perjury that
the foregoing is true and correct.

Executed on -----
Santa Barbara, California.

Lucila G. Ames

